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LOURDES P. AGUON-SCHULTE) CIVIL CASE NO. CV1103-04

Plaintiff,


vs.

THE GUAM ELECTION COMMISSION;)
GERALD A. TAITANO, in his individual)
capacity and in his capacity as the)
Executive Director of THE GUAM)
ELECTION COMMISSION, I MINA')
BENTE SIETE NA LIHESLATURAN)
GUAHAN (The 27th Guam Legislature);)
FELIX P. CAMACHO, in his official)
capacity as the GOVERNOR OF GUAM.)
)
Defendants.)

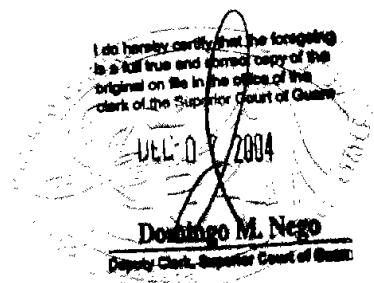
The hearing on the motion for declaratory and injunctive relief shall be held on Thursday, October 28, 2004 at the hour of 2:00 p.m.

All written oppositions to the motion for declaratory and injunctive relief, as well as all motions to disqualify the undersigned Judge of the Superior Court of Guam, shall be filed and served by 12:00 p.m. Wednesday, October 27, 2004.

All replies to any written opposition to the motion for declaratory and injunctive relief, as well as written oppositions to any motion to disqualify the undersigned Judge of the Superior Court of Guam, if any, shall be filed and served by 12:00 p.m. Thursday, October 28, 2004.


HONORABLE KATHERINE A. MARAMAN
Judge, Superior Court of Guam

10/22/04



DATE: 10/25/04

SUPERIOR COURT OF GUAM

TIME: 10:22:12

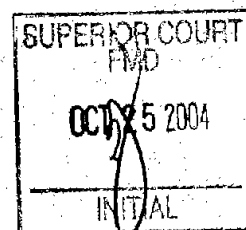
CASE NO: CV1103-04

TYPE: CIVIL

CAPTION: LOURDES P. AGUON-SCHULTE VS. G.E.C. AND ETAL

TOTAL AMOUNT: 10.00

<u>Reference Number</u>	<u>Reference Date</u>	<u>Description</u>	<u>Rev acct</u>	<u>Amt Owed</u>
040012421	10/25/2004	JB/CV CIVIL OTHERS	33052199	10.00



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Summerville

100-443887-100

CLERK OF DISTRICT COURT

Re...

1) CIVIL CASE NO. OF 1103-04

NOTICE OF MOTION AND MOTION
FOR PRE-ELECTION:

) (1) INJUNCTIVE RELIEF;
) (2) DECLARATORY RELIEF, AND
) (3) ORDER COMPELLING A SPECIAL
) ELECTION ON PROPOSAL A

)
)
)

9.m., Plaintiff will move this court for an order granting its motion for pre-election (1) injunctive relief; (2) declaratory relief; and (3) order compelling a special election on Proposal A.

DOOLEY ROBERTS & FOWLER LLP

By: THOMAS L. ROBERTS

ORIGINAL

**MOTION FOR PRE-ELECTION DECLARATORY RELIEF
AND PRELIMINARY AND PERMANENT INJUNCTION**

A. Pre-Election Declaratory Relief. Plaintiff moves for an immediate, pre-election declaratory judgment on (a) the legal efficacy of the Proposal A ballot pamphlets mailed to the voters by the Directors and the Guam Election Commission, and (b) whether the results of any vote on Proposal A on November 2, 2004 will be invalid as a result of (i) the ballot pamphlets mailed to the voters, and/or (ii) the mass public uncertainty caused by the Attorney General's opinion. Under Rule 57 of the Guam Rules of Civil Procedure, the existence of alternative or cumulative or narrower remedies "does not preclude a judgment for declaratory relief in cases where it is appropriate." Additionally, "(t)he court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar", and Plaintiff so requests.

The facts and law supporting Plaintiff's request for a pre-election declaratory judgment are set forth in accompanying memorandum filed in support of Plaintiff's complaint for declaratory relief and injunctive relief, which is incorporated herein and made a part hereof by this reference.

B. Pre-Election Preliminary and Permanent Injunction. Plaintiff also moves for a preliminary and permanent injunction pursuant to Rule 65 of the Guam Rules of Civil Procedure. Rule 65 provides that "(b)efore or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application," and Plaintiff so requests.

For the reasons stated in the accompanying memorandum filed in support of Plaintiff's complaint for declaratory relief and injunctive relief, which is incorporated herein and made a part hereof by this reference, the court should enter an order (1) enjoining the scheduled

November 2, 2004 vote on Proposal A, (2) compelling the Director and the Election Commission to remove the Proposal A ballots from the polling places on November 2, 2004, and (3) enjoining the Director and the Election Commission from tabulating any mailed ballots on Proposal A.

DOOLEY ROBERTS & FOWLER LLP

Dated: October 18, 2004

By: _____



THOMAS L. ROBERTS
Attorneys for Plaintiff

F:\Documents\Thomas L Roberts (07.04)\C325 CFED\Pleadings\C235 - Mtn for Declaratory Relief 10 18 2004.doc

I do hereby certify that the foregoing
is a full true and correct copy of the
original on file in the office of the
clerk of the Superior Court of Guam

DEC 07 2004

Domingo M. Nego

Deputy Clerk, Superior Court of Guam

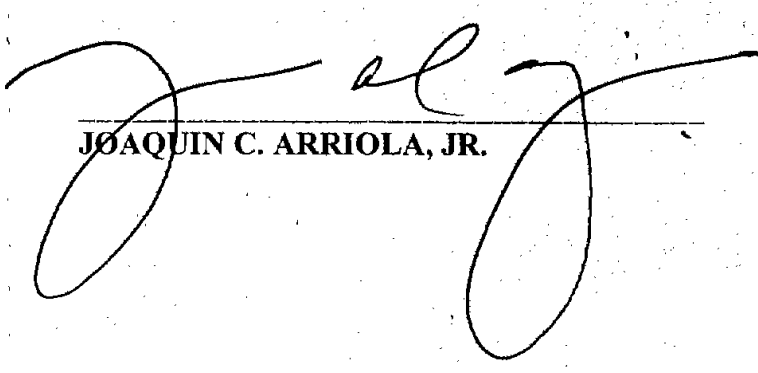
BY

of Guam had signed a proposed Stipulation Permitting Intervention by Lina'la. Defendant 27th Guam Legislature was prepared to sign the Stipulation. Thus, I do not believe that the Defendants oppose the motion to intervene. On Thursday, October 21, 2004, Plaintiff had agreed to such a Stipulation, but on Friday, October 22, 2004, Plaintiff no longer agreed.

4. As of the preparation of this Declaration, it is unknown if any of the Parties will oppose the motion or be present at the hearing thereon.

I declare under penalty of perjury, that the foregoing statements are true and correct and to the best of my knowledge and belief.

Dated at Hagatna, Guam: October 25, 2004.


JOAQUIN C. ARRIOLA, JR.

I do hereby certify that the foregoing
is a full true and correct copy of the
original on file in the office of the
clerk of the Superior Court of Guam

DEC 8 2004


Domingo M. Nego

Deputy Clerk, Superior Court of Guam

JOAQUIN C. ARRIOLA, JR., ESQ.
ARRIOLA, COWAN & ARRIOLA
259 MARTYR STREET, SUITE 201
P.O. BOX X, HAGATNA, GUAM 96932
TELEPHONE: (671) 477-9730/33
TELECOPIER: (671) 477-9734

Counsel for Lina'la' Sin Casino

FILED
SUPERIOR COURT
OF GUAM

704 EPI 05 11 22

CLERK OF COURT

BY: *Jm*

IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

LOURDES P. AGUON-SCHULTE,

Plaintiff,

vs.

THE GUAM ELECTION COMMISSION;
GERALD A. TAITANO, in his individual
capacity and in his capacity as the
Executive Director of THE GUAM
ELECTION COMMISSION, I MINA'
BENTE SIETE NA LIHESLATURAN
GUAHAN (The 27th Guam Legislature);
FELIX P. CAMACHO, in his official
capacity as the GOVERNOR OF GUAM,

Defendants.

CIVIL CASE NO. CV1103-04

DECLARATION IN SUPPORT OF
EX PARTE MOTION OF LINA'LA' SIN
CASINO TO INTERVENE

JOSE Q. CRUZ, being duly sworn, deposes and states as follows:

1. I am a resident of Tumon, Guam and a registered voter of the Territory of Guam. I am the President of Lina'la' Sin Casino, a non-profit corporation registered under the laws of Guam.
2. Lina'la' Sin Casino is an educational, non-profit corporation committed to providing education and information concerning issues of current interest and for protection of the family and culture of Guam. Lina'la' has registered with the Guam Election Commission as a group of voters opposed to Proposal A, an initiative measure currently being voted on by the people of Guam.

Lina'la' has submitted official arguments in opposition to Proposal A, which were adopted and published by the Guam Election Commission. Lina'la' has been recognized by the Guam Election Commission as a group of voters organized in opposition to Proposal A, pursuant to the Commission Rules and Regulations. Over the past two years, Lina'la' has expended extensive resources, time and effort to oppose Proposal A. Lina'la' has historically opposed efforts to legalize casino gambling on Guam.

3. Lina'la' seeks to intervene in the above-captioned case to protect its interests and the interests of voters of Guam who oppose Proposal A. Plaintiff Lourdes P. Aguon-Schulte is the campaign director for the proponents of Proposal A. On information and belief, Plaintiff is employed by Citizens for Economic Diversity. Citizens for Economic Diversity is a for-profit corporation which has initiated, sponsored and aggressively campaigned for Proposal A. Citizens for Economic Diversity has been recognized by the Guam Election Commission as a group of voters organized in support of Proposal A, and has submitted official arguments in support of Proposal A, which were adopted and published by the Guam Election Commission.

4. Lina'la's interests in defeating Proposal A are not represented by any of the parties in this case. Lina'la's interests are clearly not represented by the Plaintiff. While Lina'la' does not dispute all of Plaintiff's factual allegations, Lina'la' opposes **all** of Plaintiff's claims for relief. No other party to this case represents the interests of Lina'la'. No other party in this case actively opposes Proposal A.

5. Lina'la' intends to defend the above lawsuit and assert a number of defenses and issues relating to the complaint including: Plaintiff lacks standing to sue for such relief; the Superior Court of Guam lacks jurisdiction over Plaintiff's federal claims; Plaintiff has unclean hands in pursuing her claims; Plaintiff is estopped and barred by the doctrine of laches in pursuing her claims;

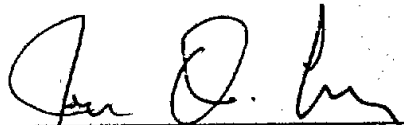
Plaintiff's cause of action is not ripe for review; Plaintiff's requested relief is not authorized by Guam law and indeed, her request directly contravenes local law. Lina'la's defense and the main action have a questions of law and fact in common.

6. Lina'la' claims an interest relating to the transactions which are the subject of the action: the election on Proposal A. Lina'la' is so situated that the disposition of the action may as a practical matter impair or impede the Lina'la's ability to protect that interest. NONE of the parties herein will represent Lina'la's interests. Lina'la' opposes Proposal A; Plaintiff supports Proposal A.

I declare under penalty of perjury under the laws of Guam that the foregoing is true and correct.

Dated at Hagatna, Guam: October 25, 2004.

LINA'LA' SIN CASINO


JOSE Q. CRUZ, PRESIDENT

I do hereby certify that the foregoing
is a full true and correct copy of the
original on file in the office of the
clerk of the Superior Court of Guam.

OCT 27 2004


Domingo M. Negro

Deputy Clerk, Superior Court of Guam

2004 OCT 25 10:12 22

CLERK OF COURT

BY 

JOAQUIN C. ARRIOLA, JR., ESQ.
ARRIOLA, COWAN & ARRIOLA
259 MARTYR STREET, SUITE 201
P.O. BOX X, HAGATNA, GUAM 96932
TELEPHONE: (671) 477-9730/33
TELECOPIER: (671) 477-9734
Counsel for Lina'la' Sin Casino

**IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM**

LOURDES P. AGUON-SCHULTE,

Plaintiff,

vs.

THE GUAM ELECTION COMMISSION;
GERALD A. TAITANO, in his individual
capacity and in his capacity as the
Executive Director of THE GUAM
ELECTION COMMISSION, I MINA'
BENTE SIETE NA LIHESLATURAN
GUAHAN (The 27th Guam Legislature);
FELIX P. CAMACHO, in his official
capacity as the GOVERNOR OF GUAM,

Defendants.

CIVIL CASE NO. CV1103-04

**NOTICE OF EX PARTE MOTION AND
REQUEST TO TRANSMIT FILE**

PLEASE TAKE NOTICE THAT, Intervenor, LINA'LA' SIN CASINO, will bring on for ex parte hearing a Motion to Intervene on Monday, October 25, 2004, at 11:00 a.m., or as soon thereafter as the matter may be heard, before the Honorable Judge Katherine A. Maraman, assigned judge, Superior Court of Guam, 120 W. O'Brien Drive, Hagatna, Guam. The Clerk of Court is respectfully requested to transmit the case file to the chambers of Judge Maraman for hearing.

Dated at Hagatna, Guam : October 25, 2004.

ARRIOLA, COWAN & ARRIOLA

ORIGINAL

I do hereby certify that the foregoing is a full true and correct copy of the original on file in the office of the clerk of the Superior Court of Guam.

DEC 01 2004

Domingo M. Negro

Deputy Clerk, Superior Court of Guam

JOAQUIN C. ARRIOLA, JR.

D
EON

JOAQUIN C. ARRIOLA, JR., ESQ.
ARRIOLA, COWAN & ARRIOLA
259 MARTYR STREET, SUITE 201
P.O. BOX X, HAGATNA, GUAM 96932
TELEPHONE: (671) 477-9730/33
TELECOPIER: (671) 477-9734

Counsel for Lina'la' Sin Casino

SUPERIOR COURT
OF GUAM

2004 OCT 27 AM 10:23

CLERK OF COURT

BY

IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

LOURDES P. AGUON-SCHULTE,

Plaintiff,

vs.

THE GUAM ELECTION COMMISSION;
GERALD A. TAITANO, in his individual
capacity and in his capacity as the
Executive Director of THE GUAM
ELECTION COMMISSION, I MINA'
BENTE SIETE NA LIHESLATURAN
GUAHAN (The 27th Guam Legislature);
FELIX P. CAMACHO, in his official
capacity as the GOVERNOR OF GUAM,

Defendants.

CIVIL CASE NO. CV1103-04

EX PARTE MOTION OF LINA'LA' SIN
CASINO TO INTERVENE

COMES NOW, Intervenor, LINA'LA' SIN CASINO, by and through its counsel, Joaquin C. Arriola, Jr., and moves the Court, ex parte, to intervene in this case. This ex parte motion is supported by the following Memorandum of Points and Authorities and the Declaration of Jose Q. Cruz filed herewith. Lina'la's Answer setting forth the defenses for which intervention is sought is attached as Exhibit A and incorporated herein by this reference.

ORIGINAL

MEMORANDUM OF POINTS AND AUTHORITIES

Guam Rules of Civil Procedure, Rule 24 provides as follows:

Rule 24. Intervention.

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action:

(1) when a statute confers an unconditional right to intervene, or (2) *when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.*

(b) Permissive Intervention. Upon timely application, anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) *when an applicant's claim or defense and the main action have a question of law or fact in common.* When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene. When the validity of an act of the Guam Legislature affecting the public interest is drawn in question in any action to which the Government of Guam or an officer, agency, or employee thereof is not a party, the court shall notify the Attorney General.

Rule 24, GRCP (emphasis added.).

Lina'la's application to intervene is timely. No answers have been filed by any Defendants.

This suit was only filed on October 18, 2004, and the first hearing in the matter was held on October 21, 2004. An expedited briefing schedule has been ordered and Lina'la' is prepared to comply.

Under Rule 24(a)(1) above, intervention as a matter of right is warranted. This is an election case involving Proposal A, an initiative measure **currently** being voted on by the people of Guam. Plaintiff clearly is affiliated with the proponents of Proposal A, namely Citizens for Economic

Diversity, a for-profit corporation which has sponsored Proposal A. She is their paid campaign director. Lina'la' Sin Casino is an educational, non-profit corporation committed to providing education and information concerning issues of current interest and for protection of the family and culture of Guam. Lina'la' has registered with the Guam Election Commission as a group of voters opposed to Proposal A. Lina'la' has submitted official arguments in opposition to Proposal A, which were adopted and published by the Guam Election Commission. Plaintiff seeks to stop the ongoing vote on Proposal A. Plaintiff further seeks a declaratory judgment nullifying the ongoing election on Proposal A. Plaintiff further seeks declaratory relief dictating the terms and conditions of a special election for Proposal A. While Lina'la' may not dispute all of Plaintiff's factual allegations, Lina'la' opposes **all** of Plaintiff's claims for relief.

In short, Lina'la' claims an interest relating to the transactions which are the subject of the action: the election on Proposal A. Lina'la' is so situated that the disposition of the action may as a practical matter impair or impede the Lina'la's ability to protect that interest. **NONE** of the parties herein will represent Lina'la's interests. Lina'la' opposes Proposal A; Plaintiff supports Proposal A. While some may argue that the Defendant Governor of Guam or Defendant Guam Legislature may adequately represent Lina'la's interests, those parties have their own interests, primarily political and governmental, which are not at all similar to Lina'la's, much less protected by such Defendants. Lina'la' represents many voters who oppose Proposal A, and who oppose Plaintiff's claims for relief. **NO OTHER PARTY** shares such interest in this litigation. Under Rule 24(a)(1), Lina'la's intervention as of right must be ordered.

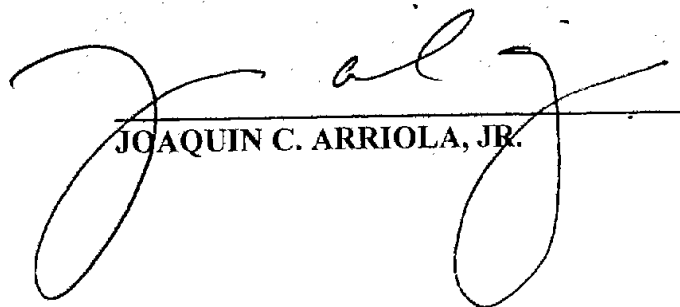
Similarly, under Rule 24 (b), permissive intervention is warranted. Again, Lina'la's instant motion is timely, filed about a week after the complaint herein was filed, and only filed after the named parties declined to stipulate to such intervention (after having initially agreed to such

stipulation). Lina'la' claims a number of defenses and issues relating to the complaint: Plaintiff lacks standing to sue for such relief; the Superior Court of Guam lacks jurisdiction over Plaintiff's federal claims; Plaintiff has unclean hands in pursuing her claims; Plaintiff is estopped and barred by the doctrine of laches in pursuing her claims; Plaintiff's cause of action is not ripe for review; Plaintiff's requested relief is not authorized by Guam law and indeed, her request directly contravenes local law. Lina'la's defense and the main action have a question of law and fact in common: what, if anything, should be done about the ongoing election on Proposal A. Lina'la' does not share Plaintiff's claim for relief: Lina'la' does not believe the ongoing election should be stopped; Lina'la' does not believe the ongoing election is invalid; Lina'la' does not believe the Court should order a special election. Lina'la's defense of this lawsuit will provide the Court with more arguments, guidance, facts and law on the issues presented by the Plaintiff.

Under Rule 24, intervention as of right or permission is warranted. Lina'la' meets all the grounds for such. ALL interests in this action should be represented.

Dated at Hagatna, Guam : October 25, 2004.

ARRIOLA, COWAN & ARRIOLA



JOAQUIN C. ARRIOLA, JR.

JOAQUIN C. ARRIOLA, JR., ESQ.
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TELEPHONE: (671) 477-9730/33
TELECOPIER: (671) 477-9734

Counsel for Lina'la Casino

IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

LOURDES P. AGUON-SCHULTE,) CIVIL CASE NO. CV1103-04

Plaintiff,)

vs.)

THE GUAM ELECTION COMMISSION;
GERALD A. TAITANO, in his individual
capacity and in his capacity as the
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ELECTION COMMISSION, I MINA'
BENTE SIETE NA LIHESLATURAN
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FELIX P. CAMACHO, in his official
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Defendants.)

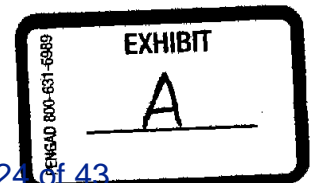
ANSWER OF LINA'LA' SIN CASINO

LINA'LA' SIN CASINO,)

Intervenor.)

COMES NOW, Intervenor, LINA'LA' SIN CASINO, by and through its Attorney, Joaquin C. Arriola, Jr., and answers the Plaintiff's Complaint as follows:

1. Answering Paragraph 1 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained



therein and on that basis denies said paragraph.

2. Answering Paragraph 2 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

3. Answering Paragraph 3 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

4. Answering Paragraph 4 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

5. Answering Paragraph 5 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

6. Answering Paragraph 6 of Plaintiff's Complaint, Intervenor denies the allegations contained therein.

7. Answering Paragraph 7 of Plaintiff's Complaint, Intervenor admits that "Proposal A is on the ballot for the scheduled November 2, 2004 Guam General Election," but lacks sufficient information or knowledge to form a belief as to the truth or falsity of the remaining allegations in said paragraph and on that basis denies the remaining allegations.

8. Answering Paragraph 8 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

9. Answering Paragraph 9 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

10. Answering Paragraph 10 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

11. Answering Paragraph 11 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

12. Answering Paragraph 12 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

13. Answering Paragraph 13 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

14. Answering Paragraph 14 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

15. Answering Paragraph 15 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

16. Answering Paragraph 16 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

17. Answering Paragraph 17 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

18. Answering Paragraph 18 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

19. Answering Paragraph 19 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

20. Intervenor refers and incorporates Paragraphs 1 through 19 of this Answer as though fully set forth herein.

21. Answering Paragraph 21 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

22. Answering Paragraph 22 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

23. Answering Paragraph 23 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

24. Answering Paragraph 24 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

25. Answering Paragraph 25 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

26. Answering Paragraph 26 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

27. Answering Paragraph 27 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

28. Answering Paragraph 28 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

29. Answering Paragraph 29 of Plaintiff's Complaint, Intervenor denies the allegations contained therein.

30. Answering Paragraph 30 of Plaintiff's Complaint, Intervenor denies the allegations contained therein.

31. Answering Paragraph 31 of Plaintiff's Complaint, Intervenor denies the allegations contained therein.

32. Intervenor refers and incorporates Paragraphs 1 through 31 of this Answer as though fully set forth herein.

33. Answering Paragraph 33 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

34. Answering Paragraph 34 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

35. Answering Paragraph 35 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

36. Answering Paragraph 36 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

37. Answering Paragraph 37 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

38. Answering Paragraph 38 of Plaintiff's Complaint, Intervenor denies the allegations contained therein.

39. Intervenor refers and incorporates Paragraphs 1 through 38 of this Answer as though fully set forth herein.

40. Answering Paragraph 40 of Plaintiff's Complaint, Intervenor denies the allegations contained therein.

41. Answering Paragraph 41 of Plaintiff's Complaint, Intervenor lacks sufficient

information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

42. Answering Paragraph 42 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

43. Answering Paragraph 43 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

44. Answering Paragraph 44 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

45. Answering Paragraph 45 of Plaintiff's Complaint, Intervenor admits the allegations contained therein.

46. Answering Paragraph 46 of Plaintiff's Complaint, Intervenor lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and on that basis denies said paragraph.

47. Answering Paragraph 47 of Plaintiff's Complaint, Intervenor denies the allegations contained therein.

AFFIRMATIVE DEFENSES

1. Plaintiff lacks standing.
2. Superior Court of Guam lacks jurisdiction over the claims in Plaintiff's Complaint.
3. Plaintiff has failed to exhaust her administrative remedies.
4. Plaintiff's Complaint and each purported cause of action therein, fails to state a claim upon which relief can be granted.

5. Plaintiff is barred by laches from obtaining any relief as pleaded in the Complaint.
6. Plaintiff is barred by the applicable statute of limitation and/or repose from obtaining any relief as pleaded in the Complaint.
7. Plaintiff has, by reason of her conduct, waived any claims sought in her Complaint.
8. Plaintiff is barred from obtaining any relief as pleaded in the Complaint by the doctrine of unclean hands.

WHEREFORE, Intervenor requests the following relief:

1. That Plaintiff's case be dismissed.
2. That Intervenor be awarded reasonable attorney's fees and costs.
3. For such other and further relief as the Court deems just in the premises.

Dated at Hagatña: October 25, 2004.

ARRIOLA, COWAN & ARRIOLA
Counsel for Intervenor, LINA'LA' SIN
CASINO


JOAQUIN C. ARRIOLA, JR.

I do hereby certify that the foregoing
is a full true and correct copy of the
original on file in the office of the
Clerk of the Superior Court of Guam

WEL 0 2 2004

Domingo M. Negro

Deputy Clerk, Superior Court of Guam

RECORDING LOG

SUPERIOR COURT OF GUAM

TAPE NO. 704-1248 PAGE NO. 1 COURT CONVENED AT 11:00 ☒ AM ☐ PM DATE 10/25/2004

PRESENT: JUDGE: HONORABLE KATHERINE A. MARAMAN CLERK:

CASE NUMBER CV1103-04 CASE TITLE Ramon P. Aguirre-Schulte

COUNSEL PRESENT: Atty Robert K. Farphy vs. Prison Election Committee, et al

PLAINTIFF: Atty Robert K. Farphy

DEFENDANT: Atty Rob Weinberg

PROCEEDINGS: Atty Robert K. Farphy

RECORDING CHANNEL ASSIGNMENT: 1. Of Parte 2. 3. 4.

LEGEND: J - JUDGE D - DEFENDANT P/WI - PLAINTIFF WITNESS NO. 1, NO. 2, ETC. DEX - DIRECT EXAM
P - PLAINTIFF D/A - DEF'S ATTORNEY D/WI - DEFENDANT WITNESS NO. 1, NO. 2, ETC. XEX - CROSS EXAM
C - CLERK P/A - PL'S ATTORNEY

LOG NUMBER	DESCRIPTION
7	Case called
35	Aguirre Jr. Rule 24.1a) Right to intervention & moving ex parte
57	- States subject of lawsuit plf is seeking
74	- Governor, Legislature or Election Commission have not represented a spouse
101	- No one can represent opponent
	Prop A
	- Many for the committee
120	- Questions of law
	- Feel we should be permitted to intervene
138	Robert: I can regard it have more time writing to go forward against intervention right now
166	- ask we return tomorrow morning
176	- No rule 9 cert process, I believe
180	Cf. There is a rule 9 statement

LOG NO	MINUTE ENTRY
203	W/bug, Shannon Taitan, Thruoutage i Cesar Lopez not here today to report
234	- Rule 24(a) intervention addresses
254	- used at noon Cesar Lopez to file papers that election should go forward
305	- Rule 24(a) (1) states what movant has to show
337	- states 2nd reason why intervention should be denied when existing parties should be prejudice
364	- states limit relationship with court & if court disqualifies herself
394	- know all judges on bench have perused themselves
419	- states 3rd reason why intervention should be denied
	- oppose application for intervention
480	Amalia: Rule 9 Statement included & parties served I changed her mind this past Friday & had signed this past Mon on Fri past Counsel signed Statement & have approved
536	Amalia: Object, to do at opening

LOG NO	MINUTE ENTRY
548	Remberg: States A.C. position as to go to Geneva; Atty General is entitled to be heard
588	Last wk A.C. made appearance in this court
659	Like to study re Atty General's presentation
673	Agree with ply to some & disagree to some
	With respect to proposed intervention
	Speculate that this lawsuit is obvious
	We have no position on the merits
739	Amrita Ji: States position under rule 9
744	Issue of standing addressed
760	We are registered since 1995
	as non profit organization
789	Robert: accepts that position
796	Amrita On Oct 1st reference
	- Complaint filed merely a wk ago
	- will comply with court briefing schedule
827	- none of parties moved for discovery protection when it was disclosed
	- This is a question of proposal A
	Whether this goes forward
	- none of parties were representative of proposal A
	- we feel we have better standing than

902 G. Until 4pm Atty Roberts can file
today a response

TAPE NO. T04/248

PAGE: 4

CASE NO. CV 110304

DATE: 10-25-04

LOG NO.	MINUTE ENTRY
920	Winters: 1964 decision cited
930	- until 10/7 my clients didn't see
	problem until then
	On 10/14 we saw there was a problem
950	Look at last sentence of Rule 24
	direct court
1002	Winters not validity of out of court legislative
	challenging

I do hereby certify that the foregoing is a full true and correct copy of the original on file in the office of the clerk of the Superior Court of Oregon.

DEC 1 2004

Rodrigue M. Neco
Deputy Clerk, Superior Court of Oregon

Dooley Roberts & Fowler LLP
Suite 201, Orlean Pacific Plaza
865 South Marine Drive
Tamuning, Guam 96913
Telephone: (671) 646-1222
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Attorneys for Plaintiff Lourdes P. Aguon-Schulte

FILED
SUPERIOR COURT
OF GUAM

2004 OCT 25 PM 4:07

CLERK OF COURT

BY: 

IN THE SUPERIOR COURT

OF GUAM

LOURDES P. AGUON-SCHULTE

Plaintiff,

vs.

THE GUAM ELECTION COMMISSION;
GERALD A. TAITANO, in his individual
capacity and in his capacity as the
Executive Director of THE GUAM
ELECTION COMMISSION, I MINA'
BENTE SIETE NA LIHESLATURAN
GUAHAN (The 27th Guam Legislature);
FELIX P. CAMACHO, in his official
capacity as the GOVERNOR OF GUAM,

Defendants.

LINA'LA SIN CASINO

Intervenor.

) CIVIL CASE NO. CV1103-04
)
)
)
)

) **PLAINTIFF'S OPPOSITION TO LINA'LA**
) **SIN CASINO'S MOTION TO INTERVENE**

Rule 24 allows intervention when "the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties." The would-be intervenors do not appear to meet the test for intervention. The Election Commission and the Director claim the election is valid and that it will go forward as scheduled. They have every reason to vigorously oppose Plaintiff's

motions. The would-be intervenors' interests therefore appear to be "adequately represented by existing parties" within the meaning of Rule 24. As such, it is not necessary to allow them to intervene. "When applicants for intervention seek to achieve the same objectives as an existing party in the case, that party is presumed to represent the applicants' interests adequately." Meek v. Metropolitan Dade County, 985 F.2d 1471, 1477 (11th Cir. 1993).

Intervention will also be denied where it will prejudice the existing parties. None of the attorneys for the existing parties to the litigation has any objection to this court hearing the pending motions simply because she is acquainted with the named plaintiff. This is because of the urgency of the case, the obvious need for a pre-election declaration, the fact that each and every other Superior Court judge is unable to hear the case, and because Ms. Aguon-Schulte was only named as a plaintiff because she is a registered voter, not because she has any personal interest in the case that is necessarily any different than the interests of any other voter on Guam.

However, counsel for intervenors has informed the undersigned counsel that if he is permitted to intervene on behalf of Lina'la' Sin Casino, he will file a motion to disqualify this court. Under the order issued by the court at last Friday's ex parte hearing, that motion to disqualify the court will come on for hearing this Thursday, October 28, 2004. This is only two (2) working days before the November 2, 2004 election. Since every other Judge of the Superior Court has recused himself or herself from the case, as a practical any disqualification of this court will deprive plaintiff (as well as the voting public) of any pre-election declaration on the validity of the election itself. But, plaintiff and the people of Guam have a right to a pre-

election judicial declaration on whether their vote for or against Proposal A on November 2, 2004 is legally meaningful or legally meaningless.

For the reasons just stated, this morning the undersigned counsel filed a new class action lawsuit on behalf of Jay Merrill individually as well as "on behalf of all other similarly situated voters desirous of casting a vote in favor of Proposal A in a fair and legal election." A true and correct copy of the new complaint (without exhibits, which are identical to the exhibits to the complaint in this case) is attached hereto and incorporated herein as Exhibit 1. The complaint in the new case, Superior Court Civil Case No. CV. 1111-04, has been filed against the same Defendants as in the Aguon-Schulte case. Aside from the class action allegations, the new Merrill, et. al. complaint is identical to the complaint in the Aguon-Schulte case.

Finally, the undersigned counsel has filed an ex parte notice of motion and motion for declaratory and injunctive relief in the new case, as well. See Exhibit 2, attached hereto and made a part hereof. These documents are identical to the ex parte motions filed in this case. Plaintiff requests the court to also hear the ex parte motion in the new case, CV 1111-04, this Thursday, October 4, 2004 at 2:00 p.m., which is the time, date and place set for the hearing on the ex parte motions in this case, CV1103-04. The complaint as well as the ex parte motions have already been faxed to all opposing counsel presently of record in this case. See, Exhibit 3, a true and correct copy of a letter sent by the undersigned counsel this afternoon. Since they are attached to this opposition, counsel for Lina'la' Sin Casino now has them, as well. No one can possibly be prejudiced by a hearing on these motions at the same time as the other motions, since

they are identical. Most importantly, if the court feels the need to recuse itself in the event of any motion to disqualify her in CV1103-04, then the court could simply proceed to hear the identical motions in CV1111-04.

DOOLEY ROBERTS & FOWLER LLP

Dated: October 25, 2004

By: 

THOMAS L. ROBERTS
Attorneys for Plaintiff

F:\Documents\Thomas L Roberts (07.04)\C325 CFED\Pleadings\Superior Court\C325 - Opposition to Motion to Intervene.doc

I do hereby certify that the foregoing
is a full true and correct copy of the
original on file in the office of the
clerk of the Superior Court of Guam

DEC 07/2004

Domingo M. Neco

Deputy Clerk, Superior Court of Guam



SUPERIOR COURT
OF GUAM

2004 OCT 26 PM 2:57

CLERK OF COURT

BY: *[Signature]*

Douglas B. Moylan
Attorney General of Guam
Robert M. Weinberg
Assistant Attorney General
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Attorneys for the Government of Guam

IN THE SUPERIOR COURT OF GUAM
HAGÁTÑA, GUAM

LOURDES P. AGUON-SCHULTE,

Plaintiff,

vs.

THE GUAM ELECTION COMMISSION,
et al.

Defendants.

Civil Case No. CV-1103-04

NOTICE OF REMOVAL OF CIVIL ACTION
TO DISTRICT COURT

Pursuant to 28 U.S.C. § 1441(d), please take notice that pursuant to 28 U.S.C. § 1441, et seq., the above-styled action has been removed to the District Court for the Territory of Guam.

Dated this 26th day of October, 2004.

OFFICE OF THE ATTORNEY GENERAL

Douglas B. Moylan, Attorney General

ROBERT M. WEINBERG

Assistant Attorney General

copies: Tim Roberts, Esq.
For plaintiff Aguon-Schulte
Cesar Cabot, Esq.
For defendant Guam Election Commission

I do hereby certify that the foregoing
is a full true and correct copy of the
original as filed in the office of the
clerk of the Superior Court of Guam

OCT 27 2004

Domingo M. Negro

Deputy Clerk, Superior Court of Guam

Page 1

ORIGINAL

1 Shannon Taitano, Esq.
For defendant Governor of Guam
2 Therese Terlaje', Esq.
For defendant Legislature of Guam
3 Joaquin C. Arriola, Jr., Esq.
For proposed Intervenor, Lina'La'Sin Casino
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